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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/820, 820	03/30/01	ISHIKAWA	T P20468

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MM91/0911

EXAMINER

NGUYEN, T

ART UNIT

PAPER NUMBER

2677

DATE MAILED:

09/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/820,820	Applicant(s) Ishikawa	
	Examiner Tu T. Nguyen	Art Unit 2877	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status <p>1) <input type="checkbox"/> Responsive to communication(s) filed on _____</p> <p>2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>			
Disposition of Claims <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-15</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1-15</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>			
Application Papers <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
Priority under 35 U.S.C. § 119 <p>13) <input checked="" type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input checked="" type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input checked="" type="checkbox"/> Certified copies of the priority documents have been received in Application No. <u>08/916,408</u>. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <p>*See the attached detailed Office action for a list of the certified copies not received.</p>			
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>			
Attachment(s) <p>15) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>17) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). <u>2</u></p> <p>18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>20) <input type="checkbox"/> Other: _____</p>			



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Paper No. 3

Serial Number: 09/820,820

Filing Date: 03/30/01

Detailed Office Action

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, what is the “paraxial image point”? It is not in the specification or drawing.

Due to the unclear terms discussed above, Examiner does not give any patentable weight for the above terms.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haga (JP 06-129844) in view of Haga (JP 07-107346).

Haga '844 discloses an inspection device comprising: a minute-area light source (fig 1, 7a), an objective lens (fig 1, 8), a pattern object surface (fig 1, 2a), a spatial filter (fig 1, 3), imaging element (fig 1, 4).

With respect to claims 1,9,13,15, Haga '844 discloses the claimed invention except for the imaging lens. Haga '346 discloses an imaging lens (fig 1, 7). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Haga '844 with the imaging lens to control the light density or direction which make the system more accurate.

With respect to claims 1,4,6,8-9,12-13, it would have been a design choice to modify the position of the objective lens or the position of the spatial filter to improve the system performance. Since the general conditions of the invention are disclosed by the prior art, modifying the position of the filter or the objective lens involves only routine skill in the art.

With respect to claims 2,10, the claimed spatial filter which shades the non-diffusing component is well known in the art. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Haga's spatial filter with the claimed well known filter to improve the images. It is well known that the non-diffusing component causes unclear images for the CCD.

With respect to claims 3,11, Haga discloses the claimed invention except for the distance from the spatial filter to a surface of the objective lens. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Haga system with a

different distance to improve the system performance, since it has been held that where the general conditions of a claims are disclosed in the prior art, discovering the optimum workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With respect to claims 5,7,14, the claimed limitations would have been inherent.

Papers related to this application may be submitted to TC 2877 by facsimile transmission. Papers should be faxed to TC 2877 via the PTO Fax Center located in CP4-4C23. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Center number is (703)308-7722.

If the Applicant wishes to send a Fax dealing with either a Proposed Amendment or for discussion for a phone interview then the fax should:

- a) Contain either the statement "DRAFT" or "PROPOSED AMENDMENT" on the Fax Cover Sheet; and
- b) Should be unsigned by the attorney or agent.

This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Tuan Nguyen whose telephone number is (703) 306-9185.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Tu Tuan Nguyen
Patent Examiner
TC 2877
August 31, 2001/TTN


Frank G. Font
Supervisory Primary Examiner
Group Art Unit 2877